



State of Connecticut
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

Central Office ~ 25 Sigourney Street, Hartford, CT 06106

Promoting Equality and Justice for all People

Testimony to the Labor Committee
Tuesday, February 17, 2015

**SB 830, AN ACT ESTABLISHING A PROGRAM TO ASSIST MINORITY-OWNED BUSINESSES
IN OBTAINING PERFORMANCE BONDS ON CONSTRUCTION CONTRACTS**

Senator Winfield, Representative Tercyak, Senator Hwang, Representative Rutigliano and member of the Labor Committee I am Tanya Hughes executive director of CHRO. I am here today to speak in **STRONG SUPPORT** of SB 830 which will help to overcome one of the most serious challenges women and minority owned businesses face in doing business with the State of Connecticut – bonding.

The recently completed report of the Construction Contracting and Bidding Transparency Working Group shows that, "While bonding was not a required study area for the CCBT Working Group . . . but the issue of bonding remains. DAS continues to hear that the lack of access to bonding remains a significant obstacle for many small and minority-owned businesses that want to do work for the State. To bid and work on State construction projects, companies generally are required to provide the State with a bid bond, a performance bond, and a payment bond. There are numerous State agencies involved in the continued discussion of the bond surety program currently administered by the Department of Economic and Community Development. The existing program should be examined to ensure that it is effectively providing SBEs and MBEs with access to the necessary bonding required to work on State projects."

Bonding as an impediment to small, women owned and minority owned businesses has been known for decades. Rather than come before you and support the bill without any substantive proposals is from a CHRO of another era. This testimony and attachment has been submitted electronically. The attachment provides an overview of a successful bonding program that has been in effect for nearly a decade. This program exists in New York, Mississippi, the University of Texas and dozens of counties throughout the country. We have attached the enabling law from Mississippi.

We do not suggest that the Mississippi model is necessarily one Connecticut need adopt in its entirety, but it certainly provides a framework to get this much needed program started.

Thank you, I will be happy to take questions.

General Provisions

Miss. Code Ann. § 69-2-13

§ 69-2-13. Emerging Crops Fund; various loans and grants; support of Mississippi Farmers Central Market; sweet potato loan guaranties

Currentness

(4)(a) Through June 30, 2010, the Mississippi Development Authority may loan or grant to qualified planning and development districts, and to small business investment corporations, bank-based community development corporations, the Recruitment and Training Program, Inc., the City of Jackson Business Development Loan Fund, the Lorman Southwest Mississippi Development Corporation, the West Jackson Community Development Corporation, the East Mississippi Development Corporation, and other entities meeting the criteria established by the Mississippi Development Authority (all referred to hereinafter as "qualified entities"), funds for the purpose of establishing loan revolving funds to assist in providing financing for minority economic development. The monies loaned or granted by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Twenty-nine Million Dollars (\$29,000,000.00) in the aggregate. Planning and development districts or qualified entities which receive monies pursuant to this provision shall use such monies to make loans to minority business enterprises consistent with criteria established by the Mississippi Development Authority. Such criteria shall include, at a minimum, the following:

(i) The business enterprise must be a private, for-profit enterprise.

(ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, - at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.

(iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.

(iv) The borrower must demonstrate ability to repay the loan.

(v) The borrower must not be in default of any previous loan from the state or federal government.

(vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

(vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.

(viii) The maximum amount that may be loaned to any one (1) borrower shall be Two Hundred Fifty Thousand Dollars (\$250,000.00).

(ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term "minority business enterprise" means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this subsection, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term "owned and controlled" means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business. However, an individual whose personal net worth exceeds Five Hundred Thousand Dollars (\$500,000.00) shall not be considered to be an economically disadvantaged individual.

From and after July 1, 2010, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) Notwithstanding any other provision of this subsection to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its loan revolving fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and

development district uses uncommitted funds in its loan revolving fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (c) must be repaid to the district's loan revolving fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its loan revolving fund to provide temporary funding under this paragraph (c) on more than two (2) occasions during a calendar year.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract with federal agencies, state agencies or political subdivisions of the state. The Mississippi Development Authority may secure letters of credit, as determined necessary by the authority, to guarantee bid, performance and payment bonds pursuant to this subsection. Monies for such program shall be drawn from the monies allocated under subsection (4) of this section to assist the financing of minority economic development and shall not exceed Three Million Dollars (\$3,000,000.00) in the aggregate. The Mississippi Development Authority may promulgate rules and regulations for the operation of the program established pursuant to this subsection. For the purpose of this subsection (5), the term "minority business enterprise" has the meaning assigned such term in subsection (4) of this section.

Surety Bond Guaranty Program

Contact MDA

For more information on the Surety Bond Guaranty Program that assists socially and economically disadvantaged minority and women-owned businesses email Derek Finley or call Derek at 601.359.2036.

The Surety Bond Guaranty Program assists socially and economically disadvantaged minority and women-owned businesses as designated by the Minority and Small Business Development Division of the Mississippi Development Authority. Eligible participants can receive technical assistance throughout the bonding process and/or a bond guaranty where necessary.

The Surety Bond Guaranty Program is available on construction projects requiring a performance and payment bond where the contracting agency is a federal, state or local unit of government (public projects). It is also available on certain private projects that have governmental funding.

In some instances, the program may also be available for bid bonds on public projects or private jobs with public funding.

PROGRAM FACTS

Increased minority participation in construction and building trade contracts with federal, state and local units of government is the goal of the Minority Surety Bond Guaranty Program.

To qualify for the Minority Surety Bond Guaranty Program, eligible applicants must meet the following requirements:

- Be in the construction or building trade business;
- Be a certified Minority Business Enterprise through the Minority and Small Business Development Division of MDA;
- Have been in business at least one year prior to application;
- Have its principal place of business located in Mississippi;
- Meet experience and financial standards appropriate to the contract;
- Agree to subcontract no more than 75% of a qualified contract;
- Show reasonable evidence of inability to secure bonding under normal market conditions.

In order to be considered for a bond guaranty, an eligible business and/or its bond producer must contact the Minority and Small Business Development Division to begin the process. The applicant may be a prime contractor or subcontractor as long as there is an executed contract for work to be performed.

SURETY BOND TERMS

The amount and terms of the guaranty are established by the participating surety in conjunction with MDA's Bond Guaranty Review Committee. On some projects, there may be involvement of a participating financial institution. **The maximum guaranty amount for a participant who is in the first year of the program is 90% of the contract amount up to \$250,000. In subsequent years of participant, the maximum amount of the guaranty may be up to \$350,000.**

For further details, see Section 69-2-13(5), MS Code 1972, Annotated.